

## REMARKS

The present application includes pending claims 1-39, all of which have been rejected. By this Amendment, claims 1 and 12 have been amended as set forth above, while new claims 40-53 have been added.

Claims 1-39 stand rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication No. 2003/0151621 ("McEvilly"). The Applicants respectfully traverse these rejections for at least the following reasons:

### **I. McEvilly Does Not Anticipate Claims 1-39**

McEvilly discloses a "graphical interface that is customizable and personalized for each user." See McEvilly at Abstract. In particular, McEvilly discloses the following:

[A]n embodiment of the present invention provides a system and method for providing a user with access to a plurality of services and content from a number of remote servers and that provides the user with access to the desired service and content through a graphical interface that is customisable and personalised for each user. In one embodiment, the system monitors the services that are requested by each user to update and maintain user profiling information for each user. This user profiling information can then be used, for example, to target services or content for the user.

See *id.* at ¶ [0047]. In short, McEvilly discloses a graphical guide that assists a user in selecting among a variety of media. The user's media habits may be monitored so that the system can "target services or content to the user."

The graphical interface of McEvilly is "customizable."

... a graphical user interface that is personalized for each user. In this embodiment, the menu design, selections, and content displayed to a user are based on user profile data and usage information maintained by the system in one or more databases.

See *id.* at ¶ [0050]. As McEvelly specifically discloses, however, the interface is customizable in minor fashion. See *id.* at ¶ [0110] (“This is designed to allow minor user-specific page customisations such as a change in background colour or the addition of the user name to the menu screen, to be applied to the HTML file after it has been generated using the style sheet and the XML.”). See also *id.* at ¶ [0170].

McEvelly also discloses a program guide that may be displayed to a specific user:

Based on this stored information, the system can build a programme guide to be displayed to a specific user that is personalised for that specific user, displaying, for example, a **channel line-up based on the user’s indicated preferences and/or usage**, the user’s favourites list, and related programming information customised for the specific user.

See *id.* at ¶ [0051] (emphasis added). Notably, the programme guide may list a plurality of programs from a plurality of channels.

McEvelly lists the types of services that a user may gain access, and which may be displayed in relation to the user interface:

In this embodiment, the services that the user can access include:

- i) video on demand...;
- ii) email from a mail server...;
- iii) an electronic programme guide (EPG)...;
- iv) electronic commerce from a shopping server...;
- v) Internet/world wide web access...;
- vi) broadcast TV (BTV) including basic television **channels, premium channels**...; and

vii) user services such as billing information, user profiles etc., provided by a management and billing server....

See *id.* at ¶¶ [0056] – [0063] (emphasis added). See also *id.* at ¶¶ [0309] – [0316].

Notably, McEvelly is clear that a user may gain access to a plurality of broadcast and premium **channels** by way of the user interface. See *id.* at ¶ [0065] (“In this embodiment, the user gains access to the different services and content provided by the application servers 30 via menu pages of a graphical user interface....”). Indeed, McEvelly even discloses an “alert” function that indicates that a favorite program is being broadcast on another channel:

In this embodiment, an alerts common function is provided which is used to notify users when one of the application servers 30 (such as the mail server 19) needs their attention, when the user is using a different application server 30 (such as the broadcast TV server 27). This alerts common function can be used, for example, to give the following type of alerts: that there is a new E-mail message for the user; that a favourite television programme is current showing **on a different channel**; that the user has missed a favourite television programme but it has been recorded for the user if they wish to view it now etc.

See *id.* at ¶ [0127] (emphasis added). In short, the user interface of McEvelly is used to allow a user to select among a variety of services and content. For example, a user may switch from one service, such as email, to a broadcast television channel, or among a plurality of broadcast television channels, using the user interface. See *id.*, e.g., at ¶ [0177] (“As shown, above this window 121 the name 123 of the film or channel currently playing is displayed to the user (in this illustration “Channel 5” is displayed)”

and ¶ [0184] (... the All Channels option 131 provides the user with a full electronic programme guide for all of the channels to which the user has subscribed.”).

Overall, McEvilly discloses a system and method in which a user selects among a variety of services. The user selects among the content and services at his/her current location, and the selected content or service is then sent to that user’s location.

**A. McEvilly Does Not Describe, Teach Or Suggest A User Defined Media Channel**

While McEvilly discloses a system and method of selecting among a variety of services and content (including a plurality of television channels), McEvilly does not describe, teach or suggest “a user interface, at the first home, **having at least one user defined media channel**, the at least one user defined media channel comprising a **sequence of user selected and scheduled media**, the user interface supporting selection and scheduling of the media.” Again, McEvilly merely discloses an interface that allows a user to select programming from a variety of existing channels, but does not describe, teach or suggest a **user-defined media channel** at all, let alone one where the user-defined media channel comprises a sequence of user selected and scheduled media. Thus, for at least this reason, the Applicants respectfully submit that McEvilly does not anticipate claims 1-11.

Independent claim 12 recites, in part, “a user interface, at the first home, having at least one user defined media channel, the at least one user defined media channel comprising a sequence of user selected and scheduled media, the user interface supporting selection and scheduling of the media,” while independent claim 23 recites, in part, “a user interface having at least one user defined media channel comprising a

sequence of user selected and scheduled media, the user interface supporting selection and scheduling of the media.” As discussed above, McEvilly does not describe, teach or suggest a “user defined media channel comprising a sequence of user selected and scheduled media.” This, for at least the reasons discussed above, McEvilly does not anticipate claims 12-28.

Independent claim 29 recites, in part, “executable code enabling **creation by a first user of one or more media channels for distribution to an authorized second user at a second location** remote from the first location.” As discussed above, McEvilly allows a particular user to select among a plurality of broadcast channels and other services, but it does not describe, teach or suggest “creation by a first user of one or more media channels for distribution to an authorized second user at a second location remote from the first location.” Thus, for at least this reason, McEvilly does not anticipate claims 29-39.

**B. McEvilly Does Not Describe, Teach Or Suggest Delivery Of Media From A First Home To A Second Home**

As discussed above, McEvilly discloses a system and method in which a user in a first location requests delivery of media content from that first location, and the media content is ultimately delivered to that first location. McEvilly does not describe, teach or suggest, however, “server software that received **from the first home** at the first associated first protocol address, via a communication network, a **request for the delivery of the media**,... and that responds by **coordinating delivery of the media from one of the first storage and the at least one server to the second television**

**[in the second home]**...,” as recited in claim 12, for example. Thus, for at least this additional reason, McEvilly does not anticipate claims 12-22.

Claim 29 recites, in part, “wherein each of the one or more media channels comprises a sequence of media content selected by the first user, which is made available for consumption by the **second user** of the media exchange network **at times scheduled by the first user.**” Again, McEvilly discloses a system and method in which a user requests content at a first location, and that content is ultimately delivered to that user at that first location. McEvilly does not describe, teach or suggest, however, a first user creating a media channel, and scheduling programs on that media channel for a second user in a different location. Thus, for at least this additional reason, McEvilly does not anticipate claims 29-39.

## **II. New Claims 40-53 Should Be In Condition For Allowance**

New claims 40-53 should be in condition for allowance for at least some of the reasons set forth above. The fee for these new claims is calculated as follows:

14 new claims X \$50/claim = \$700

2 new independent claims X \$200/independent claim = \$400

**TOTAL = \$1100**

### III. Conclusion

In general, the Office Action makes various statements regarding claims 1-39 and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. The Applicants expressly reserve the right, however, to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully submit that the Office Action has not established a prima facie case of anticipation with respect to any of the pending claims for at least the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the Applicants.

The Commissioner is authorized to charge any necessary fees, including the **\$1100** for new claims 40-53, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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